

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

MFA.No. 797 of 2002(A)

**OP(MV).724/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT: PETITIONER:

**MAHROOF, S/O. MANNU,
AGED 24 YEARS, KANIKUTHI HOUSE, CHERUKATTOOR P.O.,
MANANTHAVADY TALUK, WYNAD DISTRICT.**

BY ADV. SRI.N.J.ANTONY

RESPONDENTS: RESPONDENTS:

- 1. M.MUHAMMED, S/O. MOIDU HAJI,
KADA HOUSE, PADINJARATHARA.**
- 2. MUHAMMED IQBAL,
S/O. LATE CHERIYA MAMMU HAJI, KURUNGODAN HOUSE,
CHETUKATTOOR.**
- 3. ORIENTAL INSURANCE CO.,
PRAMOD BUILDING, CHEROOTTY ROAD, KOZHIKODE.**
- 4. BALAN, S/O. UNNICHANDU,
POOLAPARAMBIL HOUSE, KUNNAMANGALAM P.O.**
- 5. THE MANAGING DIRECTOR,
UNIROYAL MARINE EXPORTS LTD., 11/19,
VENGALAM P.O., KOZHIKODE.**
- 6. UNITED INDIA INSURANCE COMPANY,
VELIMANNA BUILDINGS, THAMARASSERY.**

**BY ADV. SMT.M.HEMALATHA
SRI.K.S.BALAKRISHNAN
SRI.VARGHESE PREM
SRI.GEORGE CHERIAN (THIRUVALLA)**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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Dated this the 16th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Kalpetta in O.P.(MV) 724/95. The claimant aged 24 years sustained injuries in a road accident whereby he had sustained fracture of femur, fracture of the tibia and fibula, crush wound on the right ankle etc. and he was treated as a inpatient in the hospital for a period of 245 days. The Tribunal awarded a consolidated sum of Rs.1,89,100/- under different heads and it is against that decision the present appeal is filed.

2. Heard both sides. The learned counsel for the appellant would submit that the income taken is grossly inadequate for a person aged 24 years who was doing the work of a head load worker. The Tribunal has only taken the income at Rs.1,000/- which is even below the notional income fixed under the schedule to the M.V. Act. We feel this is a fit case where an income of Rs.1,500/- can be taken per month and as per the

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multiplier table for the age group of 24 the multiplier to be used is 17 but the Tribunal has fixed it as 18. So we fix the monthly income at Rs.1,500/- per month and apply a multiplier of 17 for a disability of 50%, the total disability compensation would be Rs.1,53,000/-. The Tribunal has awarded Rs.1,08,000/- under that head. Therefore, the claimant is entitled to an additional compensation of Rs.45,000/- under that head. It can be seen from the documents produced that he had sustained fracture of femur and fracture of fibula. There was dislocation on C5th and C6th of spine besides crushed wound on the left knee. On account of 50% disability there will be considerable amount of inconvenience to him. So, taking into consideration that aspect we award an additional amount of Rs.15,000/- towards loss of amenities and enjoyment in life. The Tribunal itself reports that the claimant was carried to the Court and it is indicative of the fact that he needs consistent medical treatment which requires future medical attendance. We feel a reasonable amount of Rs.10,000/- can be awarded under that head. The Tribunal has awarded the actual loss of earning at the rate of Rs.1,000/- per month. When the income is taken as Rs.1,500/- he will be entitled to an additional compensation of Rs.6,000/-. He was inpatient in the hospital for

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245 days was admitted and he had visited hospital on innumerable number of occasions. The Tribunal has awarded Rs.1,500/- towards transport Rs.500/- towards extra nourishment which are grossly inadequate. Therefore, we find an amount of Rs.4,000/- has to be awarded as additional compensation under those heads. Therefore, the claimant will be entitled to an additional compensation of Rs.80,000/-.

In the result, the M.F.A. is disposed of as follows:

Claimant is awarded an additional compensation of Rs.80,000/- with 7% interest on the said sum from the date of petition till realisation and the 3rd respondent, Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment. Considering the nature of injuries sustained when the claimant moves an application for disbursement of the amount that may be considered sympathetically by the Tribunal.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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**K.S. RADHAKRISHNAN &
M.N. KRISHNAN, JJ.**

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J U D G M E N T

16th January, 2007.